

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

IN RELATION

To the disputed boundary line between the State of Missouri and Territory of Iowa.

DECEMBER 24, 1839.

Read, laid on the table, and ordered to be printed.

To the Senate of the United States :

I herewith communicate to Congress copies of a letter from the Governor of Iowa to the Secretary of State, and of the documents transmitted with it, on the subject of a dispute respecting the boundary line between that Territory and the State of Missouri. The disagreement as to the extent of their respective jurisdictions has produced a state of such great excitement, that I think it necessary to invite your early attention to the report of the commissioner appointed to run the line in question, under the act of the 18th of June, 1838, which was sent to both Houses of Congress by the Secretary of State on the 30th January last.

M. VAN BUREN.

WASHINGTON CITY, *December 23, 1839.*

EXECUTIVE DEPARTMENT OF IOWA TERRITORY,
Burlington, October 3, 1839.

SIR : It appears to be my misfortune to be drawn irresistibly into a controversy with the authorities of the State of Missouri on the subject of a boundary.

This controversy has been forced upon us by the proceedings of the public authorities in the State of Missouri, as will be evidenced by the documents herewith transmitted. Documents marked A and B are copies of the acts of the last Legislature of Missouri, on the subject of her northern boundary. C is a copy of a communication from the county commissioners of Van Buren county, in the Territory of Iowa, complaining of certain intrusions upon their rights by the authorities of Missouri. D is a copy of a proclamation issued by me on the receipt of a communication from the commissioners of Van Buren county, in this Territory. E is a copy of a proclamation issued by the Governor of the State of Missouri, and F is a copy of my replication to the proclamation of the Governor of Missouri.

As the subject is causing some excitement in the west, I have thought it to be my duty to transmit these documents to you for your information and

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that of the President of the United States. They embody facts that will enable you to judge correctly as to the true merits of the case and position of the parties.

I am not aware that anything has yet transpired that calls for the interposition or acts of the President in the matter, unless he should deem it to be of sufficient importance to be pressed upon the consideration of Congress at its next session.

Should the President, after an examination of these documents, think it advisable to make any suggestions to me, his advice will be thankfully received and promptly attended to.

With sincere respect, I am your obedient servant,

ROBERT LUCAS.

Hon. JOHN FORSYTH,

Secretary of State of the United States.

A.

An act explanatory of an act to organize Clark county.

Whereas doubts are entertained whether or not the territory of Clark county extends north of the old Indian boundary, which has been by some erroneously considered the northern boundary of the State of Missouri; and, whereas, it is desirable to render the extent of the limit of that county certain; therefore,

Be it enacted by the General Assembly of the State of Missouri, as follows: All that portion of Territory, bounded on the west by the range line, between ranges nine and ten, west; on the south by the Indian boundary line, which passes through township sixty-seven; on the northeast by the Des Moines river, and on the north by the true boundary line of the State of Missouri, is declared to be a part of Clark county, in this State.

This act shall be in force from and after its passage.

Approved December 15, 1838.

B.

An act defining the northern boundary line of this State.

Be it enacted by the General Assembly of the State of Missouri, as follows: SEC. 1. The line, as run and marked out by the commissioner appointed by this State, from the rapids of the river Des Moines to the Missouri river, in the year 1837, be, and the same is, declared the northern line of this State.

SEC. 2. This act shall take effect, and be in force, from and after its passage.

Approved February 11, 1839.

N. B.—The foregoing is a correct copy taken from the printed copy of the Missouri Laws, but the Governor of Missouri gives the date of this act, in his proclamation, as being approved 16th July, 1839.

C.

KEOSAUQUA, July 8, 1839.

ESTEEMED SIR: The unwarrantable conduct of Missouri toward the southern portion of Iowa calls loudly for the interposition of your excellency. The authorities have, against the will and wishes of the *people*, assessed their property, and endeavored to ascertain their views in relation to slavery; and, further, ordered that they should not pay the collector of this county, whose duty requires that it should soon be accomplished. The firmness of purpose which your excellency evinced, on a similar occasion, in the disputed boundary of *Ohio*, gives us reason to expect your earnest attention on this unfortunate occurrence.

With the fullest assurance that your superior judgment and advice will suggest the course we should pursue, which we will anxiously await,

Respectfully yours,

JOHN CARNES,
CHARLES DAVIS,
JOHN SAYLAR,

Commissioners of Van Buren county, Iowa Territory.

D.

Proclamation by the Governor of Iowa Territory.

Whereas, it has been officially communicated to the Executive Department of the Territory of Iowa, by the county commissioners of Van Buren county, in said Territory, that certain individuals, under pretence of authority derived from the State of Missouri, have recently been assessing the property of citizens of the United States residing within the authorized limits of said county of Van Buren, in the Territory of Iowa, with a view to enforce the collection of taxes from them under pretended authority of the State of Missouri, and thereby obtain a surreptitious jurisdiction over a portion of the citizens of the United States residing in the said county of Van Buren, and within the rightful jurisdiction and organized limits of the Territory of Iowa, as organized by the act of Congress "*To divide the Territory of Wisconsin and establish the Territorial Government of Iowa*," approved 12th of June, 1838: And whereas, an act originally passed by the Legislative Council of Michigan, approved the 12th of February, 1835, was adopted as a law of Wisconsin, previous to the division of the Territory, and by the 12th section of the organic act of Congress declared to be in full force and effect in the Territory of Iowa, entitled "An act to prevent the exercise of a foreign jurisdiction within the limits of the Territory."

"SEC. 1. *Be it enacted, &c.*, That if any person shall exercise or attempt to exercise any official functions, or shall officiate in any office or situation within any part of the present jurisdiction of this Territory, or within the limits of any of the counties therein, as at this time organized by virtue of any commission or authority not derived from this Territory, or under the laws of this Territory, or under the Government of the United States; every person so offending shall, for every such offence, on conviction thereof before any court of record, be punished by a fine not exceeding

one thousand dollars, or imprisoned at hard labor not exceeding five years, or both, at the discretion of the court.

"SEC. 2. *Be it enacted, &c.,* That if any person residing within the limit of this Territory shall accept of any office or trust from any State, or authority other than the Government of the United States, or this Territory, every person so offending shall be fined not exceeding one thousand dollars, or imprisoned five years, at the discretion of the court."

And whereas, it is declared by the ORGANIC LAW to be the duty of the Executive "*to take care that the laws be faithfully executed,*" I, therefore, in discharge of the duty imposed upon me by the Constitution and laws of the United States, as well as the laws of this Territory, do hereby proclaim the "*Act to prevent the exercise of a foreign jurisdiction within the limits of this Territory*" as aforesaid, to be in full force and effect, within the organized boundary of the Territory of Iowa; and admonish all persons, upon their peril, to desist from exercising or attempting to exercise any official function, or from officiating or attempting to officiate, in any office or situation whatsoever, within any part of the jurisdiction of this Territory, or within any of the counties therein as at present organized, by virtue of any commission or authority not derived from this Territory, or under the laws of this Territory, or under the Government of the United States. And I do likewise admonish all persons residing within the limits of this Territory, to desist from the acceptance of any office or trust from any State or authority, other than the Government of the United States or the Territory of Iowa. And I do hereby enjoin upon the district attorney of the United States, the district prosecutor of the first judicial district of the Territory, all sheriffs, constables, justices of the peace, and other peace officers within the several counties in this Territory bordering on the State of Missouri, to be vigilant in protecting the inhabitants of the Territory in all their rights against foreign encroachments, and to be careful that the laws of the United States and the laws of this Territory be respected, enforced, and faithfully executed, within the present organized boundaries of the Territory; and that, through the instrumentality of regular judicial process, they cause all persons that may be found within the Territory of Iowa, violating, or attempting to violate, any of the provisions of the act as aforesaid, ("*to prevent the exercise of a foreign jurisdiction within the limits of this Territory,*") to be arrested and brought before the proper judicial tribunal within this Territory, to be dealt with according to law. And I do most earnestly exhort all officers and citizens to be prompt and vigilant in the discharge of their various duties, but at the same time to be circumspect in all their actions, and under no circumstance to permit themselves to become the aggressors, or to act against the citizens or authorities of Missouri without the aid of civil process, duly obtained from the proper judicial tribunals of this Territory or the United States, and in all cases to act in strict obedience to the command of such civil process; for, in whatever form an encroachment may be made on the jurisdiction of the United States, in this Territory, the only proper mode of restraining and correcting it is through the instrumentality of judicial tribunals. And it seems to me that we would be doing injustice to the enlightened discretion of the public authorities of the State of Missouri, to suppose that they would persist in their attempts to exercise jurisdiction within the present organized boundaries of Iowa, while Congress has the boundary question before them, and will, in all probability, settle it definitely at their next session. Should we,

however, be disappointed in our expectations as to the pacific disposition of the public authorities of Missouri, and they attempt to enforce an exercise of jurisdiction within any part of the present organized boundaries of our Territory, there is but one path of duty pointed out to us, and that is, to maintain the jurisdiction of the United States over the full extent of this Territory, as it was transferred to us by the United States at its organization, and to resist, by the potent arm of the civil authority, every encroachment upon our jurisdiction, until the boundary lines be definitely settled by Congress, or altered by the authority of the United States. This duty cannot be dispensed with by the civil authority of the Territory of Iowa; and the attention of all who may be required to act in the premises, is solicited to the following suggestion from such acts of Congress as may be brought to bear on the subject: The act of Congress for the punishment of certain crimes against the United States, provides, "That if any person or persons shall, knowingly and wilfully, obstruct, resist, or oppose any officer of the United States in serving, or attempting to serve or execute, any mesne process or warrant, or any rule or order of any of the courts of the United States, or any other legal or judicial writ or process whatsoever, or shall assault, beat, or wound any officer, or other person duly authorized, in serving or executing any writ, rule, order, process, or warrant aforesaid, every person so knowingly and wilfully offending in the premises, shall, on conviction thereof, be imprisoned not exceeding twelve months, and fined not exceeding three hundred dollars." The obstruction by unarmed individuals, either singly or in numbers, of the process and orders issued and made by the officers of Iowa, would probably be reached by this law. An attempt by a military force actually embodied to suppress the jurisdiction of the territorial officer, acting as they do, under the laws of the United States, within the present organized boundaries of the Territory of Iowa, would expose the parties concerned to criminal prosecutions of a still more serious character.

The laws of the United States also provide, that where the civil power is obstructed by combinations too powerful to be resisted by the ordinary civil authority, the evidence of the fact shall be laid before the President, and if he deems it sufficient, a proclamation shall issue, and such measures may be adopted as he may deem expedient, to enforce an execution of the laws of the United States, and to maintain the integrity of the Constitution.

If, therefore, the servers of civil process should be resisted by an armed force, or combination too powerful to be resisted by the ordinary civil authority, the sheriff, constable, or other officer, who may have the civil process in possession at the time of such resistance, is required to take written evidence of the facts as they relate to such resistance, and report the same to this department, to be transmitted to the President of the United States for his consideration and instructions.

In testimony whereof, I, Robert Lucas, Governor of the Territory [L. s.] of Iowa, have hereunto set my name, and caused the seal of the Territory to be hereunto affixed.

Done at the city of Burlington, in the Territory of Iowa, this twentieth day of July, in the year of our Lord one thousand eight hundred and thirty-nine, and of the independence of the United States of America the sixty-fourth.

ROBERT LUCAS.

E.

A proclamation by the Governor of the State of Missouri.

Whereas, a publication has appeared in the public prints of this State, purporting to be a proclamation issued by the authority, and bearing the name of the Governor of the Territory of Iowa, declaring that a certain organic law of said Territory, entitled "An act to prevent the exercise of a foreign jurisdiction within the limits of the Territory" shall extend to and be in force within a certain district of land lying within the boundaries, and subject to the jurisdiction of the State of Missouri, and authorizing the arrest and trial, before the judicial tribunals of Iowa, of all persons, residing within the limits of the said Territory, as the same have been declared, and are now illegally claimed by the said Territory of Iowa, who shall accept of any office or trust from any State, or who shall exercise, or attempt to exercise, any official functions, or who shall officiate in any office or situation within any part of the jurisdiction of said Territory, as at present declared, or within the limits of any of the counties therein, as at this time organized, by virtue of any commission or authority not derived from the Government of the United States or said Territory, admonishing all persons residing within the limits of the said Territory, as the same have illegally extended, from the acceptance of any such office or trust, calling upon the several officers of the territorial counties bordering upon this State to be careful that the laws of the United States, and of said Territory be respected, enforced, and faithfully executed within the boundaries of Iowa, as they are at present organized, and exhorting all such officers to promptitude and vigilance in the discharge of their respective duties, and to be vigilant in protecting the inhabitants who, it is pretended, reside within the limits of the said Territory of Iowa, and, moreover, to exercise the power of arrest within a district of country, which, since and by the terms of admission of the State of Missouri into the confederacy of the United States, has been and still is subject to the authority of this State, and over which the Territory of Iowa is now seeking to extend an unwarranted and unauthorized jurisdiction; and

Whereas, by an act of the Congress of the United States, entitled "An act to authorize the people of the Missouri Territory to form a constitution and State Government, and for the admission of such State into the Union, on an equal footing with the original States, and to prohibit slavery in certain territories," approved March 6, 1820, the territory of the State of Missouri has been set forth, prescribed, and for ever ceded by the United States to said State as the same is declared to be included within the following boundaries, to wit:

"Beginning in the middle of the Mississippi river, on the parallel of thirty-six degrees of north latitude; thence west, along that parallel of latitude to the St. Francois river; thence up and following the course of that river in the middle of the main channel thereof to the parallel of latitude of thirty-six degrees and thirty minutes, thence west along the same to a point where the said parallel is intersected by a meridian line passing through the middle of the mouth of the Kansas river, where the same empties into the Missouri river; thence from the point aforesaid, north along the said meridian line to the intersection of the parallel of latitude which passes through the rapids of the river Des Moines, making the said line to cor-

respond with the Indian boundary line; thence east from the point of intersection last aforesaid, along the said parallel of latitude, to the middle of the main channel of the main fork of the said river Des Moines to the mouth of the same, where it empties into the Mississippi river; thence due east to the middle of the main channel of the Mississippi river, thence down and following the course of the Mississippi river in the middle of the main channel thereof to the place of beginning."

Which said boundaries have been ratified by and incorporated into the constitution of this State.

And whereas, by an act of the General Assembly of the State of Missouri, entitled "An act defining the northern boundary line of this State," approved February 16, 1839, it is enacted as follows:

"1st. The line as run and marked out by the commissioners appointed by this State, from the rapids of the river Des Moines to the Missouri river, in the year 1837, be, and the same is hereby declared the northern line of this State.

"2d. This act shall take effect and be in force from and after its passage."

Which line mentioned in the first section, as appears from the report of said commissioners, filed among the archives of this State, commencing at the rapids of the Des Moines, on the parallel of north latitude forty degrees, forty-four minutes, and six seconds, runs with said parallel westwardly until it strikes the Missouri river.

Now, therefore, I Lilburn W. Boggs, Governor of the State of Missouri, by virtue of the authority with which I am invested by the constitution and laws of this State, and in fulfilment of the obligation thereby imposed on me "to take care that the laws be distributed and faithfully executed throughout the State," do hereby order and command the officers, civil and military, of the counties of this State, adjoining the northern boundary, as the same has been declared and established by the Legislature of Missouri, that they cause the laws of this State to be observed and faithfully executed within the limits of their respective counties, and that if they are prevented or obstructed in the execution of any process, or the exercise of any official function, by persons who claim not to be citizens of this State, and deny its jurisdiction and authority within the limits aforesaid, that they call to their aid the power of the county within which they are authorized to act; and if said obstruction arises from any unlawful assemblage of three or more such persons, that they report the fact to some judge or justice of the peace of this state, in order that a proclamation may be issued, commanding the persons thus assembled to disperse themselves, and depart peaceably to their homes; and in the event that such assemblage refuse to disperse when thus commanded, or are armed, or make forcible resistance to such officers, then said officers are hereby commanded to call to their aid either the power of the county, or a sufficient number of the militia, or other persons in arms, to disperse said assembly, arrest the offenders, and maintain the authority of the laws.

And I do further direct and order that the officers of the militia of the State of Missouri do hold themselves, and their respective commands, in readiness to render any assistance that may be required of them by the proper officers in quelling any disturbance within the limits of this State, in enforcing the execution of lawful process, sustaining the civil officers in the exercise of their official functions, and in fully maintaining the dignity of this State and the supremacy of its laws.

And I do, moreover, forewarn all persons residing within the limits of the territory embraced by the present boundaries of the State of Missouri, as they have been established by the laws thereof, from taking upon themselves any office or public trust, or exercise any power or do any act appertaining to such office or trust, without a lawful appointment or deputation therefor from the proper authorities of this State.

And I do, moreover, expressly direct all officers, civil and military, of this State, while they are required to execute fully their official duties within the aforesaid limits, over which the said Territory of Iowa claims to be entitled to extend its authority, by virtue of a pretended right, and the exercise of an unlawful jurisdiction, so to conduct themselves as to create no unnecessary excitement, and to use their utmost efforts, consistent with the requisitions of the laws of this State, to suppress any needless collision, and to maintain an amicable feeling with the citizens of this State, and of the United States, residing within the Territory of Iowa, and in every respect, in the discharge of their official functions, to conform strictly and literally to the laws of this State.

In thus fulfilling the duty imposed upon me by the constitution and laws of the State, which are so ordered, that no right exists, which enables the Executive to interpose its power in order to arrest, or even delay the progress of the civil authority until such time as the cause of the present difficulty may be removed, and that no alternative is left but to carry the laws of this State into full and complete execution, I must at the same time express my extreme regret that the peaceful and kind interchange of friendly feeling between the citizens of this State and the citizens of the United States, residing within the Territory of Iowa, is likely soon to be harshly suspended, and that a violent severance is about to be applied to ties that should bind a people, whose language, habits, pursuits, and principles are the same, and whose mutual interest prompts them to be neighbors in sentiment as well as in locality. In thus declaring my individual feelings on this subject, which, I have every reason to believe, are felt generally by the citizens of this State, I entertain the hope that the enlightened authorities of the Territory of Iowa will permit to be offered no obstruction to the peaceable and quiet administration of the laws of Missouri, within the ceded and constitutional limits of the State.

In testimony whereof, I, Lilburn W. Boggs, Governor of the State of Missouri, have hereunto set my hand, and caused to be affixed the Great Seal of the State of Missouri. Done at the
[L. s.] city of Jefferson, in said State, this twenty-third day of August, in the year of our Lord one thousand eight hundred and thirty-nine, of the independence of the United States the sixty-fourth, and of this State the twentieth.

LILBURN W. BOGGS.

By the Governor.

JAS. L. MINOR,

Secretary of State.

August 23.

F.

Proclamation by the Governor of Iowa Territory, in reply to the Proclamation of the Governor of the State of Missouri, of the 23d of August, 1839.

Whereas, a document has recently appeared in the public prints, bearing the name of the Governor of the State of Missouri, and purporting to be a proclamation issued by him under the seal of the said State, and bearing date the 23d day of August, 1839, in which document the Governor of Missouri, after taking a superficial view of my proclamation of the 29th of July last, enters into a labored effort to impress upon the public mind the belief, that the public authorities of the Territory of Iowa are attempting an encroachment upon the jurisdiction of the State of Missouri, and are desirous of extending their jurisdiction within the rightful boundaries of that State; with a view to remove erroneous impressions by placing the facts before the citizens of the United States, as they really exist, I have deemed it my duty to enter into a public examination of the proclamation of the Governor of Missouri, and to present to the consideration of the citizens of the United States, such facts as must convince every unprejudiced mind, that it is the State of Missouri that is aiming at an extension of jurisdiction, and that the authorities of the Territory of Iowa are only exercising jurisdiction to the line that has, from the organization of the State of Missouri till within a very recent period, been acknowledged by that State as her northern boundary line; and which line has been regarded by sundry acts of Congress and Indian treaties, as the northern boundary of Missouri, and to which line, the Territory of Wisconsin, previous to the division of the Territory, and subsequently the Territory of Iowa, have always, under the authority of the United States, exercised an uncontrolled jurisdiction.

In taking a view of the subject, I deem it improper to enter into a general discussion of the boundary question, as that is a matter that rests entirely between the United States and the State of Missouri. By the 4th article of the constitution of the United States, Congress has the power to dispose of, and make all needful rules and regulations respecting the territory, and other property of the United States. On the 18th of June, 1838, Congress passed an "Act to authorize the President of the United States to cause the southern boundary line of the Territory of Iowa to be ascertained and marked." Commissioners were appointed under the provisions of this act, (Missouri declining on her part to appoint a commissioner,) and have made a report to Congress on the subject, which report now awaits the final decision of that body, who, alone, has the constitutional right to decide the question, and to settle definitely the southern boundary of this Territory. With its decision the authorities of Iowa will be satisfied; but until this decision is made, the Territory of Iowa, acting under the authority of the United States, can acknowledge no other boundary line than the one to which the jurisdiction of the United States, through their Territorial officers, has ever been exercised, from the time the country west of the Mississippi river and north of the State of Missouri, was, by an act of Congress, attached to the Territory of Michigan for judicial purposes, until the present time.

I will now examine the claims of Missouri, as set forth by the Governor in his proclamation, and compare them with sundry official documents, and appeal to the calm tribunal of *public opinion* to determine whether it is not the *State of Missouri that is attempting an encroachment upon the territory of the United States*, rather than the United States, through their 'Territorial authorities, upon the *rights of that State*.

The Governor of Missouri, after a BOLD assertion, that "the Territory of Iowa is now seeking to extend an unwarrantable and unauthorized jurisdiction over a portion of territory which, by the terms of admission of the State of Missouri into the confederacy, has been, and still is, subject to the authority of that State," proceeds as follows, to wit:

"Whereas, by an act of the Congress of the United States, entitled 'An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, and to prohibit slavery in certain Territories,' approved March 6, 1820, the territory of the State of Missouri has been set forth, prescribed, and for ever ceded by the United States to said State, as the same is declared to be included within the following boundaries, to wit: 'Beginning in the middle of the Mississippi river on the parallel of 36 degrees of north latitude; thence west along that parallel of latitude to the St. Francois river, thence up and following the course of that river, in the middle of the channel thereof, to the parallel of latitude of 36 degrees and 30 minutes, thence west along the same to a point where the said parallel is intersected by a meridian line passing through the middle of the mouth of the Kansas river, where the same empties into the Missouri river; thence from the point aforesaid north along the said meridian line to the intersection of the parallel of latitude which passes through the rapids of the Des Moines, making the said line to correspond with the Indian boundary line; thence east from the point of intersection last aforesaid, along the said parallel of latitude, to the middle of the main channel of the main fork of the said river Des Moines to the mouth of the same, where it empties into the Mississippi river; thence due east to the middle of the main channel of the Mississippi river, then down and following the course of the Mississippi river in the middle of the main channel thereof to the place of beginning'—which said boundaries have been ratified by and incorporated into the constitution of this State." To the foregoing quotation we have no objection; it is a description of the boundaries of the State of Missouri, as defined in the constitution of that State, (with the omission of the following words which are found in the constitution, after the words "channel of the main fork of the said river Des Moines," viz: "Thence down and along the middle of the main channel of the said river Des Moines.") But to the construction given to it by the Governor of Missouri, and the conclusion drawn by him as to the right of Missouri to construe it to suit her own convenience, and to extend her boundary into the territory of the United States without the assent of the General Government, as well as her *gratuitous* assertions, that "the Territory of Iowa is now seeking to extend an unwarranted and unauthorized jurisdiction," I do *entirely and unequivocally dissent*; and I think neither the Governor of Missouri, nor any other public functionary in that State, will seriously assert, that Missouri ever claimed jurisdiction north of the line commonly known as Sullivan's line, until 1837, or that they even attempted to exercise jurisdiction north of that line until their late surrepti-

tious attempt under the Missouri act of the 16th February, 1839, by assessing the property of citizens of the United States residing north of said line, and of which notice was taken in my proclamation of the 29th of July last.

The act of Congress of the 6th of March, 1820, and the constitution of the State of Missouri, adopted in conformity to said act, both, in defining the boundaries of the State, declare that the State of Missouri shall be bounded west "by a meridian line passing through the middle of the mouth of the Kansas river, where the same empties into the Missouri river, thence from the point aforesaid north along the said meridian line to the intersection of the parallel of latitude which passes through the rapids of the river Des Moines, *making the said line to correspond with the Indian boundary line*; thence east *from the point of intersection last aforesaid*, along the said parallel of latitude to the middle of the main channel of the main fork of the said river Des Moines; thence down and along the middle of the main channel of the said river Des Moines, to the mouth of the same, where it empties into the Mississippi river; thence down and following the course of the Mississippi river in the main channel thereof to the place of beginning." Thus we see that the State of Missouri is bounded west by a meridian line passing through the middle of the mouth of Kansas river, thence "north along the said meridian line to the intersection of the parallel of latitude which passes through the rapids of the river Des Moines, *making said line to correspond with the Indian boundary line*." Inquiry may be made as to the legal meaning of the word *correspond*. If we consult Mr. Webster, who is generally admitted to be good authority, we find its meaning defined as follows, to wit: "*To suit; to answer; to agree; to fit; to be congruous; to be adapted to.*" If we give the word *correspond* either of the foregoing definitions, the conclusion must be drawn that it was used as a qualifying expression, and intended to control the parallel of latitude that was to form the northern boundary of Missouri. The term "*passing through the rapids of the river Des Moines*" is indefinite, and without a fixed point. The western line being a meridian line passing through the mouth of Kansas river, was definitely fixed at that point; and in running north with said meridian line would vary neither east nor west, but was governed in its extension north by a correspondence with the Indian boundary line, and an intersection of the parallel of latitude passing through the rapid of the river Des Moines.

The inquiry may here arise as to the locality of the line known at the time of the passage of the act of Congress, and the adoption of the constitution of the State of Missouri, as the Indian boundary line. By reference to the history of that period, it appears that in 1816, some years before the admission of the State of Missouri into the Union, Mr. Sullivan, under the direction of the Surveyor General of Missouri, Gen. William Rector, ran the line that has been always, since that period, known as Sullivan's line, or the Old Indian boundary line. This line commenced at the mouth of Kansas river, and ran with the meridian line north one hundred miles from the mouth of that river, and from thence east to the river Des Moines. From some cause—probably an omission to adjust the compass while running the line—the line run by Mr. Sullivan has been found to strike the Des Moines river several miles north of a due east line run from the termination of the Indian boundary one hundred miles north of Kansas river. The line, however, known as Sullivan's line, has been acknowledged by

the authorities of Missouri and the United States as the northern boundary of the State of Missouri; and if the Governor of Missouri will turn his attention to *the map of his own State*, published by Brown & Barcroft a few years after the admission of Missouri into the Union, and while all the localities of the places referred to in the act of Congress and constitution of Missouri were properly understood, he will find that Sullivan's line is laid down as bounding the State of Missouri west and north—thence the northwest corner of the State is placed one hundred miles north of the mouth of Kansas river, and from thence the line is run east to the river Des Moines, and down the same to the Mississippi river—that there is no place marked on the map as rapids in the Des Moines river, but that the rapids in the Mississippi above the mouth of the Des Moines river, are marked on said map as "*rapids Des Moines*." This location of the rapids, called, in the constitution of Missouri, "*Rapids of the river Des Moines*," corresponds with the opinion of the late Gov. Clark of Missouri, as expressed in an official letter written by him to the commissioner of Indian Affairs, dated January 13, 1838. In this letter Gen. Clark says:—"In the year 1816, (I think it was,) Col. John C. Sullivan was employed by the United States Surveyor General, William Rector, to run, and did mark the line which has since been marked in most if not all maps *as the western and northern boundaries of the State of Missouri*, commencing at the mouth of Kansas river and running one hundred miles, and thence east to the Des Moines river. The language in the first article of the constitution expressly refers to so much of the line as runs north *one hundred miles from the mouth of Kansas river*, and the impression was very generally prevalent, after the adoption of the State constitution, that the survey of Col. Sullivan was not only a part of the western, but the northern line of the State, and in fact that both were synonymous with the Indian boundary line." Gov. Clark further states, that "as early as the year 1824, four years after the constitution was formed, and when the subject of boundary was still fresh in recollection, treaties were made with the Iowas and Sacs and Foxes, in which the northwest corner of the State is expressly referred to; and in one of them, Col. Sullivan's survey is mentioned. In 1825, the treaty with the Kansas again refers to the northwest corner of the State, and as late as 1830, the same term is used in the treaty made with various tribes at Prairie du Chien." The foregoing treaties referred to by Gen. Clark, as well as several subsequent ones concluded with various tribes of Indians, to wit: the treaty concluded by Gen. Scott for the purchase of the present surveyed part of Iowa Territory, refers to the northern boundary of the State of Missouri; so does the treaty concluded with the Sac and Fox Indians of Washington, in 1837; also all the treaties concluded with various tribes of Indians for the purchase of the land lying between the west line of the State of Missouri and the Missouri river, refer to the northwest corner of Missouri, and some of them fix this corner one hundred miles north of the Kansas river.

The line known as Sullivan's line has been recognised as the boundary between the Surveyor General's district of Missouri and Illinois, and the Surveyor General's district of Ohio, Indiana, Michigan, and Wisconsin. All the surveys of public lands have been governed by that line, and it has been referred to in all the acts of Congress creating land districts, both in Missouri and Iowa, bordering on said line; and the land over which the authorities of Missouri now wish to exercise jurisdiction was surveyed un-

der the direction of the Surveyor General at Cincinnati, Ohio, as lying within the boundary of Wisconsin, and returned to the Register of the Land Office at Burlington, Iowa Territory, and by proclamation of the President of the United States, was sold at that place as lying within the Territory of Iowa; and the citizens of the United States, over which the authorities of Missouri now wish to exercise jurisdiction, and to levy taxes upon them, purchased the lands on which they live from the United States as lying within the Territory of Iowa, and settled upon them as such.

The line that has universally been known as Sullivan's or the Indian boundary line, and which has been recognised by all the authorities as above cited, is the line to which the Territory of Iowa, acting under the authority of the United States, has heretofore exercised uninterrupted jurisdiction, and it is the line to which it intends to exercise jurisdiction until Congress declares some other line to be the boundary of the Territory. We have never pretended to exercise or claim jurisdiction south of that line, neither do we desire to do so until the question of boundary is definitely settled by Congress.

With the foregoing incontrovertible facts, presented to the calm consideration of the citizens of the United States, we submit our cause to their decision and ask them to judge between the authorities of Iowa and those of Missouri, and determine, from the facts in the case, how far the Governor of Missouri has been sustained in his assertion, that the Territory of Iowa is now "seeking to extend an unwarranted and unauthorized jurisdiction over a portion of Missouri"—whether this assertion has any foundation in truth or reason, and whether it is not, on the contrary, the authorities of Missouri that are now seeking to extend an unwarranted and unauthorized jurisdiction over a portion of the citizens of the United States residing in the Territory of Iowa.

The Governor of Missouri, after proclaiming the law of that State, approved February 16, 1839, which appears to have passed in defiance of the act of Congress of the 18th June, 1838, authorizing the President of the United States to cause the southern boundary line of the Territory of Iowa to be ascertained and marked, and after the commissioners appointed under authority of the United States had made their report to Congress, assumes this Missouri law to be of supreme authority—claims the line run by the Missouri commissioners, in 1837, without the consent of the United States, as the boundary—and with an air of authority commands all officers in the State of Missouri, civil and military, to hold themselves in readiness to enforce the laws of Missouri, over the Territory of the United States thus vaguely claimed by that State. We, as citizens of the United States residing in the Territory of Iowa, and under the authority of the United States, consider vague all the authority, pretensions, and claims of Missouri, of every character and description, to extend her jurisdiction north of the line known as the Indian boundary line, and to which special reference is made in the constitution of that State. We deny the right of the Legislature of any State to extend their boundaries into the Territory of the United States, without the consent of Congress. We deny to the State of Missouri the right to exercise jurisdiction of any kind north of said line. We deny the right of any foreign government to tax the citizens of the United States residing within the organized boundaries of the Territory of Iowa, or any other interference with their rights, and consequently shall disregard any authority, or pretended authority or claim of the State of Missouri, to ex-

ercise jurisdiction within any part of the Territory of Iowa, as the same was transferred to us by the United States at the time of our organization, and over which we have exercised an uncontrolled jurisdiction. We shall view all acts that may be done by the authorities of Missouri, or by individuals under pretence of authority derived from that State, (north of said line,) as having been done without any authority in violation of the laws of the Territory and those of the United States, and subject to be prosecuted accordingly. Should the authorities of Missouri, in their attempt to collect taxes from the citizens of the United States within this Territory, trespass upon them, they will be liable to an action for damages. Should they forcibly take and carry away the property of any of our citizens, they will be liable, under the laws of the Territory, to be indicted for robbery, as well as an indictment under the law to prevent the exercise of a foreign jurisdiction within this Territory, and should they march with an armed force, as indicated in the proclamation of the Governor of Missouri, and invade our Territory, they may ultimately find to their regret, that it is not the infant Territory of Iowa that they are warring against, but that by such overt act they have levied war against the United States, and by invading the Territory of the United States with an armed force, they have subjected themselves to all the consequences of such act of temerity.

The Governor of Missouri, in the concluding paragraph of his proclamation, states that "in thus fulfilling the duty imposed upon him by the constitution and laws of the State, which are so ordered that no right exists which enables the Executive to interpose its power, in order to arrest or even delay the progress of the civil authority, until such time as the causes of the present difficulty may be removed, and that no alternative is left but to carry the laws of that State into full and complete execution." What is to be understood by the foregoing sentence? Does the Governor of Missouri wish to be understood as regretting the existence of the law that gave him no power to interpose the Executive authority to delay its progress until such time as the causes of the present difficulty may be removed? If so, why the passage of the Missouri act of the 16th February, 1839, in the face of the act of Congress, and after the commissioners had submitted their report? If the Governor was individually anxious to avoid difficulty, why approve the act of Missouri, that is the very cause of all the difficulty? Why the military attitude assumed by Missouri, if there was not a disposition on her part to create a difficulty? Who has originated the cause of the present difficulty as referred to by the Governor; and who is pressing it on? An enlightened community will answer these queries.

The Governor of Missouri further says, that he "must at the same time express his extreme regret that the peaceful and kind interchange of friendly feelings between the citizens of Missouri and the citizens of the United States residing within the Territory of Iowa, is likely soon to be harshly suspended, and that a violent severance is about to be applied to ties that should bind a people whose language, habits, pursuits, and principles, are the same, and whose mutual interests prompt them to be neighbors in sentiment as well as locality." None regret this state of things more than the citizens of the United States residing in the Territory of Iowa; but who, let me ask, has been the cause of all this difficulty? Who is about to cause this harsh suspension of friendly feelings—this violent severance of ties that should bind us together as neighbors? Has it been caused by any of the authorities of the territory of Iowa, or the citizens of the United States

residing within this Territory? Certainly not. The authorities of the Territory, and those of the United States within the same, nor any of the citizens residing therein, have never interfered with the authorities or citizens of Missouri within the ceded and constitutional boundaries of that State, neither do they intend to do so; but they have exercised jurisdiction over the Territory transferred to them by the United States at the organization of the Territorial government, and intend, (as before observed,) to continue to do so, the menaces and threats of the authorities of Missouri to the contrary notwithstanding. And if the friendly feelings between the citizens of Missouri and those of the United States residing in the Territory of Iowa should be for ever severed, and instead of friends and brothers, we should be compelled, by the intrusions of Missouri upon our rights, to view them henceforth as aliens in feeling and enemies in practice, and thereby be induced to withdraw our confidence from the citizens and authorities of that State, and bestow it upon our neighbors on the east of the Mississippi, with whom our institutions, habits, and commercial interests, are ultimately connected, such a state of things will be the natural results of the Missouri policy. I repeat it, if the unjustifiable course of Missouri, in her attempt to tax our citizens, and to enforce the collection of taxes from them, be persevered in, and the citizens of the United States within this Territory be compelled thereby to withdraw their confidence from the citizens and authorities of that State, both social and commercial, and bestow it upon their neighbors on the eastern side of the Mississippi, the sin will be with the politicians of Missouri—it will be *because they would have it so*, and with the authorities of that State must rest the consequences.

The Governor of Missouri, in conclusion, states, that “in declaring his individual feelings on this subject, which he has every reason to believe are felt generally by the citizens of that State, he entertains a hope that the enlightened authorities of the Territory of Iowa will permit to be offered no obstructions to the peaceable and quiet administration of the laws of Missouri, within the ceded and constitutional limits of that State.” I can here assure the Governor of Missouri, that the authorities of the Territory of Iowa have never offered any obstruction to the peaceable and quiet administration of the laws of Missouri within the “*ceded and constitutional limits*” of that State; neither do they wish to interfere with the officers or citizens of Missouri, either directly or indirectly, within her ceded and constitutional limits: but (I repeat the declaration) they *do* intend to exercise jurisdiction within the ceded and constitutional limits of the Territory of Iowa, and to oppose the strong arm of the civil authority against all who may attempt an encroachment upon their rights within the same. And if the Governor of Missouri will restrain the authorities of that State from encroaching upon the rights of the citizens of the United States within the ceded and constitutional limits of this Territory, we will assure him that the authorities of the Territory of Iowa will not pass over the generally acknowledged line to interfere with the institutions of Missouri, the rights of her citizens, or the peaceable exercise of its legitimate and constitutional authority.

Whereas, it appears by the proclamation of the Governor of the State of Missouri, that our anticipations relative to the pacific disposition of the authorities of that State have not been realized, but that her authorities, both civil and military, have been called upon, by proclamation of the Governor, to hold themselves in readiness to enforce the jurisdiction of that State over

a portion of the citizens of the United States residing within the ceded and acknowledged boundary of this Territory : And whereas it becomes our duty to maintain the jurisdiction of the United States over all the Territory acknowledged at the time of its organization to be included within the boundaries of the Territory of Iowa, until other boundaries are fixed by the Congress of the United States—I, therefore, ROBERT LUCAS, Governor of the Territory of Iowa, do hereby specially call the attention of the district attorney and marshal of the United States to this subject, as the ministerial officers of the laws of the United States within this Territory, and the legitimate guardians of the people's rights under them ; and respectfully direct, that they exercise a vigilant promptness in causing the laws of the United States to be respected and enforced within the organized limits of the Territory of Iowa ; and that they cause all offenders against the laws of the United States within this Territory to be prosecuted, arrested, and brought to trial, before the proper tribunal of the United States.

And I do further specially call the attention of the district prosecutor of the first judicial district of this Territory, and the sheriff of Van Buren county, to this subject, as the ministerial officers of the laws of the territory within the district of country over which the authorities of Missouri have attempted to obtain a surreptitious jurisdiction, and especially direct them that they exercise vigilant promptness in causing the laws of the Territory to be enforced within the said county of Van Buren ; and that all offenders against the same be promptly prosecuted, arrested, and brought before the proper judicial tribunal within the Territory, to be dealt with as the laws direct.

In thus calling upon the civil authority, we do it under the firm belief that it is sufficiently potent to protect the rights of the citizens of the United States, as well those guaranteed to them by the laws of the United States, as those of the laws of the Territory. Should the marshal of the United States, however, under any circumstances, deem it expedient to call to his aid, in the service or execution of civil process, a *posse comitatus* of armed men, he has the whole force of the Territory at his command ; and, in like manner, should the sheriff of Van Buren county deem a *posse comitatus* necessary to aid him in the service or execution of civil process, he has the whole power of his county at command. With regard to the necessity or propriety of a call for a *posse comitatus*, the respective ministerial officers must be the judges, both as to the call and the force required. Further than this, we consider an allusion to a military or armed force at this time to be entirely out of place. We think the civil authority of the United States is sufficiently powerful to bring offenders to justice ; and though it may not be adopted to make as forcible an impression at the commencement as the military arm, yet generally it operates with more certainty upon offenders ; it is more seriously felt in the sequel, and more durable in its effects upon those it operates upon. I therefore exhort the citizens of the United States residing in Van Buren county—those in particular over whom the authorities of Missouri are seeking to exercise an unwarrantable and unjustifiable jurisdiction—to be calm and discreet in all your acts. Look up to the civil authorities of the United States for protection. Should you even be threatened with extermination by the all-powerful arms of Missouri, be not dismayed. You are neither slaves, that you should pay tribute to a foreign government, nor passive members of a defenceless community, that you should be taxed without your consent. You occupy the exalted station of

free and independent citizens of the United States. You purchased the lands on which you reside from the United States, as lying within the Territory of Iowa. You have settled on them as such. You owe no allegiance to any other government, and have, therefore, a right to claim from the Government of the United States the protection of all your rights and privileges, which protection will be extended to you through the civil authority, in the first place; but should your county be invaded by an armed force too powerful to be resisted by the ordinary process of the civil authority, I repeat the request made in my proclamation of 29th July last, that "written evidence of the facts be immediately taken and forwarded to this department," which will be forthwith transmitted to the President of the United States, and his interposition and instruction solicited; and you may rest assured, that should the President of the United States authorize us to repel *force by force*, should our Territory be invaded, it will be promptly done, regardless of the boasted prowess and superior numbers of the Missouri militia.

In testimony whereof, I have hereunto set my name, and caused [L. s.] the seal of the Territory to be hereunto affixed.

Done at the city of Burlington, in the Territory of Iowa, this twenty-fifth day of September, in the year of our Lord one thousand eight hundred and thirty-nine, and of the independence of the United States the sixty-fourth, and of the organization of the Territory of Iowa the second.

ROBERT LUCAS.

